IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Writ Petition No. 27 of 2007 (M/B)

Miss Parpati Mankani, aged about 70 years,
D/o Govarmal T. Mankani,
R/o House No. 999, Timarpur,
Delhi. …..…. Petitioner

Versus

1. The Commissioner of Income Tax, Haldwani.
2. Joint Commissioner of Income Tax, Nainital.
3. Assistant Commissioner of Income Tax, Nainital. …..…. Respondents

…….

Km.. Puja Banga, Advocate for the petitioner.
Sri Arvind Vashishth, Standing Counsel for the respondents.

JUDGMENT

Coram: Hon'ble Rajeev Gupta, C.J.
Hon'ble J.C.S. Rawat, J.

RAJEEV GUPTA, C. J. (Oral)

Km. Puja Banga, Advocate for the petitioner.

Sri Arvind Vashishth, Standing Counsel (Income Tax Department) for the respondents.

They are heard.

2. The petitioner has filed this writ petition for the following reliefs:

"1. Issue a writ order or direction in the nature of certiorari quashing the impugned order dated 23.11.2006

2. Issue any other writ order or direction which this Hon'ble Court may deem fit in the facts and circumstances of the case.

3. Award the costs of this writ petition to the petitioner.

3. The petitioner, in substance, is seeking quashing of the order dated 23.11.2006 passed by respondent no. 3 whereby the land bearing Khata

Khatauni No. 76, 77, 78 and 108 measuring 11 Nalis situated in Village Lweshal, Patti Paschami Chahkhata, Tehsil and District Nainital and the four storeyed building on the said land was attached under Section 281-B of the Income Tax Act in the assessment proceedings pending against the petitioner for the Assessment Year 1999 – 2000.

4. Sri Arvind Vashistha, the learned Standing Counsel for the respondents, submits that the assessment proceedings against the petitioner have already been completed and assessment order has been passed on 28.12.2006.

5. Km. Puja Banga, the learned counsel for the petitioner, submits that the petitioner has already filed an appeal against the assessment order and the same is pending.

6. As the petitioner has already availed the statutory remedy of filing an appeal, we decline to exercise our discretionary jurisdiction under Article 226 of the Constitution of India.

7. The writ petition, therefore, is dismissed with the liberty to the petitioner to pursue the appeal filed by the petitioner against the assessment.

8. Consequently, the interim order dated 02.03.2007 stands vacated automatically.

9. With the above order, CLMA No. 911 of 2007 also stands disposed of.

(J.C.S. Rawat, J.) **(Rajeev Gupta, C. J.)**
16.05.2007 16.05.2007

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